

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JOHN V. HOBBS,

Plaintiff,

v.

THE KROGER CO., JOHN DOE,
and JOHN DOE, INC.,

Defendants.

Civil Action File No.

Removed from Cobb County State
Court, Civil Action No. 23-A-144

JURY TRIAL DEMANDED

DEFENDANT THE KROGER CO.'S PETITION FOR REMOVAL

COMES NOW Defendant **THE KROGER CO.** (hereinafter referred to as “Defendant” or “Kroger”), by and through undersigned counsel, and shows this Honorable Court the following:

1.

This action was filed in the State Court of Cobb County, Georgia, said county being part of the Northern District of Georgia. (N.D.G.A. Local Rule 3.1(A), LR App. A, I). This, the Atlanta Division of this Court, is the proper Division for this removal as further set forth below.

2.

The action is a civil action for personal bodily injuries and medical expenses, and the United States District Court for the Northern District of Georgia has jurisdiction by reason of the diversity of citizenship of the parties.

3.

The matter in dispute exceeds \$75,000.00, the statutory amount in controversy, exclusive of interest and costs, as evidenced by Plaintiff's Complaint filed January 13, 2023, wherein Plaintiff set forth a claim for damages for medical care and treatment in excess of \$200,000.00. See Exhibit A.

4.

- (a) At the time of the commencement of this action in the State Court of Cobb County, and since that time, Plaintiff John V. Hobbs was and is now a citizen of Georgia.
- (b) Defendant Kroger at the time this action was commenced was and still is a corporation, incorporated and existing under and by virtue of the laws of Ohio having its principal place of business in Ohio, and a citizen of Ohio.

5.

Pursuant to 28 U.S.C. § 1446(c)(2)(B), removal of an action is proper if the district court finds by “the preponderance of the evidence” that the “amount in controversy exceeds” \$75,000. Here, the amount in controversy exceeds \$75,000. In Plaintiff’s Complaint, he states damages in excess of \$200,000. Based on the preponderance of the evidence, Plaintiff’s Complaint indicates that the amount in controversy is in excess of \$75,000.

6.

The instant *Petition for Removal* is timely filed pursuant to and in accordance with 28 U.S.C. § 1446(b) within thirty (30) days after the receipt by Defendant’s counsel of Plaintiff’s Summons and Complaint, attached as Exhibit A.

7.

Furthermore, the instant *Petition for Removal* is timely filed pursuant to and in accordance with 28 U.S.C. § 1446(c)(1) within one year of the commencement of the action.

8.

Accordingly, this action, over which the United States District Court for the Northern District of Georgia has original jurisdiction under 28 U.S.C. § 1332, is

removable to the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1441.

9.

Venue is proper in the Atlanta Division of the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1441, 28 U.S.C. § 1391, and N.D.G.A. Local Rule 3.1(B)(1)(a). Specifically, Plaintiff's Complaint was filed in the State Court of Cobb County, which is part of the Atlanta Division. *See* N.D.G.A. Local Rule 3.1(A), LR App. A, I.

10.

As required by 28 U.S.C. § 1446(d), Defendant shall give written notice hereof to all adverse parties and shall file a copy of this *Petition for Removal* with the Clerk of the State Court of Cobb County.

WHEREFORE, Defendant The Kroger Co. requests that this action proceed in this Court as an action properly removed to it.

[Signature on following page.]

Respectfully submitted, this 17th day of February, 2023.

**GRAY, RUST, ST. AMAND,
MOFFETT & BRIESKE, L.L.P.**

950 East Paces Ferry Road, N.E.
Suite 1700 – Salesforce Tower Atlanta
Atlanta, Georgia 30326

Telephone: (404) 870-7386

Facsimile: (404) 870-1033

Email: mmoffett@grsmb.com
slisle@grsmb.com
jfreiman@grsmb.com

/s/ Sarah Raquel L. Lisle

Matthew G. Moffett

Georgia Bar No. 515323

Sarah Raquel L. Lisle

Georgia Bar No. 412593

Jeremy A. Freiman

Georgia Bar No. 786086

*Attorneys for Defendant The Kroger
Co.*

CERTIFICATE OF SERVICE AND OF COMPLIANCE WITH L.R. 5.1

This is to certify that on this date, the undersigned filed a true and correct copy of **DEFENDANT THE KROGER CO.'S PETITION FOR REMOVAL** with the Clerk of Court using the CM/ECF system and served all parties of record via electronic service through the CM/ECF system to:

Edward J. Bauer, Esq.
BAUER LAW OFFICES
P.O. Box 19776
Atlanta, GA 30325-0776

Further, this is to certify that the foregoing pleading complies with the font and point selections approved by the Court in Local Rule 5.1. It is prepared in Times New Roman 14-point font.

Respectfully submitted, this 17th day of February, 2023.

**GRAY, RUST, ST. AMAND,
MOFFETT & BRIESKE, L.L.P.**
950 East Paces Ferry Road, N.E.
Suite 1700 – Salesforce Tower Atlanta
Atlanta, Georgia 30326
Telephone: (404) 870-7386
Facsimile: (404) 870-1033
Email: mmoffett@grsmb.com
slisle@grsmb.com
jfreiman@grsmb.com

/s/ Sarah Raquel L. Lisle
Matthew G. Moffett
Georgia Bar No. 515323
Sarah Raquel L. Lisle
Georgia Bar No. 412593
Jeremy A. Freiman
Georgia Bar No. 786086
*Attorneys for Defendant The Kroger
Co.*